

accepts the report, then the conveyance may proceed. If the report identifies a condition in the Mine that may pose an imminent and substantial endangerment to public health or the environment, then Homestake may, but is not obligated to, carry out or permit the State or other persons to carry out a response action to correct the condition. If the condition is one that requires a continuing response action, or a response action that may only be completed as part of the final closure of the laboratory, then Homestake, the State or other persons must make a deposit into the Environment and Project Trust Fund established in Section 7 that is sufficient to pay the costs of that response action. The amount of the deposit is to be determined by the independent entity, on a net present value basis and taking into account interest that may be earned on the deposit until the time that expenditure is expected to be made. Homestake may choose to contribute toward the response actions. However, Section 4 includes a provision that limits Homestake's contribution to this additional work, if necessary, to \$75 million, reduced by the value of the property and equipment that Homestake is donating. Funds deposited into the Fund to meet this requirement may only be expended to address the needs identified in the inspection.

Once any necessary response actions have been completed, or necessary funds have been deposited, then the independent entity may certify to the EPA that the conditions identified in the report that may pose an imminent and substantial threat to human health or the environment have been corrected.

Final Review. Not later than 60 days after receiving the certification, the EPA must make a final decision to accept or reject the certification. Conveyance may proceed only if the EPA accepts the certification.

Section 105. Assessment of Property. Section 5 sets forth the process for valuing the donated property and services. For purposes of determining the amount of Homestake's potential contribution toward response actions identified in Section 4(b)(4)(C), the property being donated by Homestake is to be valued by the independent entity according to the Uniform Appraisal Standards for Federal Land Acquisition. To the extent that some property, such as underground tunnels, only has value for the purpose of constructing a laboratory, that entity is directed to include the estimated costs of replacing the facilities in the absence of Homestake's donation, and the cost of replacing any donated equipment. The valuation is to be submitted to the Administrator of the EPA, the state and Homestake in a separate report that is not subject to the procedures in Section 4(b). If it is determined that the conveyance can most efficiently be processed in several phases, then the valuation report is to accompany each of the due diligence reports.

#### Section 106. Liability

Assumption of liability. Upon conveyance, the United States shall assume liability for the mine and laboratory. This liability includes damages, reclamation, cleanup of hazardous substances under CERCLA, and closure of the facility. If property transfer takes place in steps, then the assumption of liability shall occur with each transfer for those properties.

Liability protection. Upon conveyance, neither Homestake nor the State of South Dakota shall be liable for the mine or laboratory. The United States shall waive sovereign immunity for claims by Homestake and the State, assume this liability and indemnify Homestake against it. However, in the case of any claim against the United States, it is only liable for response costs for

environmental claims to the extent that response costs would be awarded in a civil action brought under the Federal Water Pollution Control Act, the Solid Waste Disposal Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or any other Federal environmental law. In addition, claims for damages must be made in accordance with the Federal Tort Claims Act.

Exceptions. Homestake is not relieved of liability for workers compensation or other employment-related claims, non-environmental claims that occur prior to conveyance, any criminal liability, or any liability for property not transferred, unless that property is affected by the operation of the lab.

#### Section 107. Insurance Coverage

Requirement to Purchase Insurance for mine. To the extent such insurance is available, the state shall purchase property and liability insurance for the mine and the operation of the laboratory to provide coverage against the liability assumed by the United States. The requirement to purchase insurance will terminate if the mine ceases to be used as a laboratory or Operations and Maintenance funding is not sufficient to operate the laboratory.

Terms of Insurance. The state must periodically consult with the EPA and the Scientific Advisory Board and consider the following factors to determine the coverage, type and policy limits of insurance: the nature of projects in the laboratory, the cost and availability of commercial insurance, and the amount of available funding. The insurance shall be secondary to insurance purchased by sponsors of individual projects, and in excess of amounts available in the Fund to pay any claim. The United States shall be an additional insured and will have the right to enforce the policy.

Funding of insurance purchase. The state may finance the purchase of insurance with funds from the Fund or other funds available to the state, but may not be compelled to use state funds for this purpose.

Project insurance. In consultation with the EPA and the Scientific Advisory Board, the State may require a project sponsor to purchase property and liability insurance for a project. The United States shall be an additional insured on the policy and have the right to enforce it.

State insurance. The State shall purchase unemployment compensation insurance and worker's compensation insurance required under state law. The State may not use funds from the Fund for this purpose.

#### Section 108. Environment and Project Trust Fund

Establishment of fund. On completion of conveyance, the State shall establish an environment and Project Trust Fund in an interest-bearing account within the state.

Capitalization of Fund. There are several streams of money that will capitalize the fund, some of which have restrictions on the way they may be spent.

Annual Portion of Operation and Maintenance Spending. A portion of annual O&M funding determined by the State in consultation with the EPA and the Scientific Advisory Board shall be deposited in the Fund. To determine the annual amount, the State must consider the nature of the projects in the facility, the available amounts in the Fund, any pending costs or claims, and the amount of funding required for future actions to close the facility.

Project Fee. The state, in consultation with NSF and EPA, shall require each project to pay an amount into the Fund. These funds may only be used to remove projects from the lab or to pay claims associated with those projects.

Interest. All interest earned by the Fund is retained within the Fund.

Other funds. Other funds may be received and deposited in the Fund at the discretion of the state.

Expenditures from Fund. Funds within the Trust Fund may only be spent for the following purposes: waste and hazardous substance removal or remediation, or other environmental cleanup; removal of equipment and material no longer used or necessary for use with a project or a claim association with that project; purchases of insurance by the State (except for employment related insurance); payments for other costs related to liability; and the closure of the mine.

Federal Authority. To the extent the United States is liable, it may direct that amounts in the Trust Fund be applied toward costs it incurs.

Section 109. Waste Rock Mixing. If the State, acting in its capacity overseeing the laboratory, determines to dispose of waste rock excavated for the construction of the laboratory on land owned by Homestake that is not conveyed under this legislation, then the State must first receive approval from the Administrator before disposing such rock.

Section 110. Requirements for Operation of Laboratory. The laboratory must comply with all federal laws, including environmental laws.

Section 111. Contingency. This Act shall be effective contingent upon the selection of the Mine by the National Science Foundation as the site for the laboratory.

Section 112. Obligation in the Event of Nonconveyance. If the conveyance does not occur, then Homestake's obligations to reclaim the mine are limited to the requirements of current law.

Section 113. Payment and Reimbursement of Costs. The United States may seek payment from the Fund or insurance as reimbursement for costs it incurs as the result of the liability it has undertaken.

Section 114. Consent Decrees. Nothing in this title affects the obligation of a party to two existing consent decrees.

#### Section 115. Offset. Offset for title.

Section 116. Authorization of appropriations. Such funds as are necessary to carry out the Act are authorized.

The PRESIDING OFFICER. The majority leader.

### UNANIMOUS CONSENT AGREEMENT—H.R. 2884

Mr. DASCHLE. Mr. President, there is a matter that has some urgency associated with it only because I know the House is waiting to receive the language. So in the interest of expediting consideration of this particular piece of legislation, I now ask unanimous consent that the Chair lay before the Senate a message from the House on H.R. 2884, that the Senate concur in the amendment of the House with a further amendment which is at the desk.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. Reserving the right to object, what is 2884?

Mr. DASCHLE. Mr. President, 2884 is the Victims Relief Fund, the legislation dealing with victims of terrorism.

Mr. GRAMM. What is the amendment, Mr. President?

Mr. DASCHLE. I yield to the Senator from New Jersey.

Mr. TORRICELLI. I thank the majority leader for yielding. When the Senate unanimously passed this legislation

previously, we included waiving income taxes and payroll taxes for families of the victims of September 11. The House of Representatives in their bill included only income taxes and not payroll taxes.

When the House repassed the bill and sent it to us, they included a provision that did not include payroll taxes but set a minimum of \$10,000 so lower income people would receive some tax refund. The House wanted to retain the principle of not waiving payroll taxes but did want to give some refund to low-income families. This was seen as agreeable to both sides and fair.

Mr. GRAMM. Mr. President, further reserving the right to object, it is my understanding there were additional provisions such as extended unemployment, provisions of that nature. Are they in this bill?

Let me suggest the absence of a quorum so we could look at that.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I have a unanimous consent request that is pending.

The PRESIDING OFFICER. Is there objection to the request?

Mr. BAUCUS. Reserving the right to object, is this the victims relief bill, I ask the majority leader?

Mr. DASCHLE. I answer to the Senator from Montana it is the victims relief bill.

Mr. BAUCUS. Reserving the right to object, and I shall not object, there is a disaster in the State of Montana and other higher plain States, which is a drought. I have been seeking agricultural disaster assistance. I see that is not going to happen. I ask my friend from South Dakota if he can assure me that at the first opportunity next year we will take up and consider the agricultural disaster assistance bill.

Mr. DASCHLE. Mr. President, I commend the Senator from Montana for his efforts over the course of the last several months. I have been impressing the Senate to act on disaster relief. Many farmers in South Dakota share this problem, and I have applauded the efforts made by the Senator from Montana. I appreciate his interest and his determination to see that it adequately responds to the Great Plains, the Midwest, and elsewhere.

I assure the Senator from Montana that at the first appropriate opportunity we will find a way to address the legislation and find a way in which to respond. As he recalls, we did some of that last summer. We had a good debate about how much was necessary. I

think the Senator from Montana is correct in his observations that there is still a great deal more to be done. I will work with him to see that that happens.

Mr. BAUCUS. Mr. President, I thank my good friend from South Dakota. I add that this bill is very necessary to the victims relief bill, as it was reported to the Committee on Finance. I will not belabor it by going through the provisions. According to the rules, there is not time to do so. Suffice to say, this bill must pass in the next several hours because it will give much-needed relief. I thank my friend.

Mr. SCHUMER. Mr. President, reserving the right to object, and I will not object, I would like to just say that some of the provisions that are not in this bill—first, the victims relief part of the bill is very necessary. We did not want to stand in the way of that. Originally, when the victims relief bill came over to the House, it had provisions to benefit Lower Manhattan. We all know that Lower Manhattan is in real trouble because of what happened on September 11. The great fear is that businesses, large and small, will leave. The fear factor is enormous.

Over on the House side, the chairman of the Ways and Means Committee worked out a package that would help bring some relief. On this side, Senator CLINTON and I worked out a package that had tremendous support in our version of the stimulus bill from the majority leader, as well as the chairman of the Finance Committee. We had spent a great deal of time after it looked as though the stimulus bill was not going to happen, starting yesterday, and finishing about an hour and a half ago, trying to come to a compromise between the House version and the Senate version.

The chairman of the Ways and Means Committee in the other body and our staffs worked long and hard to come up with the compromise we have come up with. There are a few changes here and there that he might like, I might like, and Senator CLINTON might like, and others in New York might like, but we did come to an agreement. Unfortunately, the agreement we came to was not able to be reviewed by the Senators in this body. We just came up with it about an hour, hour and a half ago.

Unfortunately, because time is late and because the victims package has achieved that agreement, we will not stand in the way and object to removing the New York part from the bill and bringing up this other bill.

But I say this to my colleagues: We have a tremendous problem in downtown Manhattan. We are getting FEMA relief, and it is working well. The Senator from West Virginia has helped us in other areas. But tax relief to companies, big and small, to individuals, to nonprofits that don't have space right now, or that have space but are wondering whether they can stay in Lower Manhattan, is vital to New York's reblooming quickly.

I am hopeful that when we come back in January, the package that has been agreed to and worked on by the chairman of the Ways and Means Committee and many of his people, Senator BAUCUS, Senator GRASSLEY, Senator CLINTON, and myself will serve as a basis for bringing something up quickly then.

We had hoped to get something now. We have come really close—close but no cigar, they say. We are going to try to gain that cigar as soon as we come back. But make no mistake about it, we will be back. We very much need the help, and we appreciate everybody's cooperation to help us get there.

Mr. LOTT. Has the unanimous consent request been agreed to?

Mr. SCHUMER. I withdraw my objection.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I say to the Members, this final victims package is a good package. I earlier introduced a measure to make sure we included the provisions of S. 1433, which is supported by Senator WARNER, Senator CAMPBELL, and Senator CRAIG. I am glad these ideas have been recognized, that this war we are fighting is against terrorists who target defenseless men, women, and children. The areas in which these attacks occur are combat zones.

I am glad this package has been worked out, because the last thing the families of these victims need to be worrying about is paying taxes, whether income taxes or other types of taxes—this bill addresses those concerns.

While my colleague from New York may want to add some other items to this measure—but at this late hour will not—I commend to my colleagues the fact that the police officers and firefighters who first responded to the World Trade Center attacks, as well as the Pentagon, risked their lives in hazardous conditions, breathing toxic gases, to save the lives of their fellow citizens.

In my view, those who are serving in those terrorist attack zones ought to be looked upon as the same as those who work in combat zones, and the taxes of those first responders for that month ought not be subject to income taxes. I am going to work next year to get this proper recognition for our firefighters, law enforcement officers, and rescue personnel, but I do not want to hold up this good victims' relief package which means a good deal to a lot of families who feel a very big hole in their hearts during this holiday season. I yield the floor.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Reserving the right to object, and I shall not object.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my colleague, Senator ALLEN, for his comments. I also thank my colleague, Senator TORRICELLI, for his work and the work we did in the Finance Committee. We also included the victims from the Oklahoma City bombing disaster 6 years ago in which 189 people lost their lives. Likewise, they should not have to pay taxes for that year or the preceding year. The amount of income is almost de minimis, but it is only fair.

I thank my colleagues from New York and New Jersey for their cooperation. My colleagues from New York had many additional, very interesting items—accelerated depreciation and other ideas to stimulate the economy. We are happy to work with them to try to make that happen in the near future.

I thank my colleagues for their support, and I shall not object.

The PRESIDING OFFICER. Is there objection?

If there is no objection, without objection, it is so ordered.

The majority leader.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the vote on the conference report to accompany H.R. 3338 occur immediately following the remarks made by the senior Senator from West Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TORRICELLI. Will the majority leader yield?

The PRESIDING OFFICER. Is objection heard?

Mr. LOTT. Mr. President, I seek recognition, but in view of what we have just agreed to, I know the Senator from New Jersey wants to be heard. I yield the floor to him.

Mr. TORRICELLI. Mr. President, I thank the Republican leader for his courtesy. I want to say a word of thanks to all of my colleagues. I was proud to have offered this provision in the Finance Committee and again on the Senate floor.

The PRESIDING OFFICER. The Chair needs to ascertain if there is objection to the preceding unanimous consent request.

Mr. MCCAIN. I withdraw my objection.

The PRESIDING OFFICER. The objection is withdrawn. Without objection, it is so ordered.

The Chair laid before the Senate a message from the House, as follows:

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the House agree to the amendments of the Senate to the bill (H.R. 2884) entitled "An Act to amend the Internal Revenue Code of 1986 to provide tax relief for victims of the terrorist attacks against the United States on September 11, 2001", with the following House amendment to senate amendments:

In lieu of the matter proposed to be inserted by the Senate amendment to the text of the bill, insert the following:

#### SECTION 1. SHORT TITLE; ETC.

(a) *SHORT TITLE*.—This Act may be cited as the "Victims of Terrorism Tax Relief Act of 2001".

(b) *AMENDMENT OF 1986 CODE*.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) *TABLE OF CONTENTS*.—The table of contents for this Act is as follows:

Sec. 1. Short title; etc.

#### TITLE I—RELIEF PROVISIONS FOR VICTIMS OF TERRORIST ATTACKS

Sec. 101. Income taxes of victims of terrorist attacks.

Sec. 102. Exclusion of certain death benefits.

Sec. 103. Estate tax reduction.

Sec. 104. Payments by charitable organizations treated as exempt payments.

#### TITLE II—OTHER RELIEF PROVISIONS

Sec. 201. Exclusion for disaster relief payments.

Sec. 202. Authority to postpone certain deadlines and required actions.

Sec. 203. Application of certain provisions to terrorist or military actions.

Sec. 204. Clarification of due date for airline excise tax deposits.

Sec. 205. Treatment of certain structured settlement payments.

Sec. 206. Personal exemption deduction for certain disability trusts.

#### TITLE III—TAX BENEFITS FOR AREA OF NEW YORK CITY DAMAGED IN TERRORIST ATTACKS ON SEPTEMBER 11, 2001

Sec. 301. Tax benefits for area of New York City damaged in terrorist attacks on September 11, 2001.

#### TITLE IV—DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS

Sec. 401. Disclosure of tax information in terrorism and national security investigations.

#### TITLE V—NO IMPACT ON SOCIAL SECURITY TRUST FUNDS

Sec. 501. No impact on social security trust funds.

#### TITLE I—RELIEF PROVISIONS FOR VICTIMS OF TERRORIST ATTACKS

##### SEC. 101. INCOME TAXES OF VICTIMS OF TERRORIST ATTACKS.

(a) *IN GENERAL*.—Section 692 (relating to income taxes of members of Armed Forces on death) is amended by adding at the end the following new subsection:

"(d) *INDIVIDUALS DYING AS A RESULT OF CERTAIN ATTACKS*.—

"(1) *IN GENERAL*.—In the case of a specified terrorist victim, any tax imposed by this chapter shall not apply—

"(A) with respect to the taxable year in which falls the date of death, and

"(B) with respect to any prior taxable year in the period beginning with the last taxable year ending before the taxable year in which the wounds, injury, or illness referred to in paragraph (2) were incurred.

"(2) *SPECIFIED TERRORIST VICTIM*.—For purposes of this subsection, the term 'specified terrorist victim' means any decedent—

"(A) who dies as a result of wounds or injury incurred as a result of the terrorist attacks against the United States on April 19, 1995, or September 11, 2001, or

"(B) who dies as a result of illness incurred as a result of an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002.

Such term shall not include any individual identified by the Attorney General to have been a participant or conspirator in any such attack or a representative of such an individual."

#### (b) CONFORMING AMENDMENTS.—

(1) Section 5(b)(1) is amended by inserting "and victims of certain terrorist attacks" before "on death".

(2) Section 6013(f)(2)(B) is amended by inserting "and victims of certain terrorist attacks" before "on death".

#### (c) CLERICAL AMENDMENTS.—

(1) The heading of section 692 is amended to read as follows:

**"SEC. 692. INCOME TAXES OF MEMBERS OF ARMED FORCES AND VICTIMS OF CERTAIN TERRORIST ATTACKS ON DEATH."**

(2) The item relating to section 692 in the table of sections for part II of subchapter J of chapter 1 is amended to read as follows:

"Sec. 692. Income taxes of members of Armed Forces and victims of certain terrorist attacks on death."

#### (d) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(1) *EFFECTIVE DATE*.—The amendments made by this section shall apply to taxable years ending before, on, or after September 11, 2001.

(2) *WAIVER OF LIMITATIONS*.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

##### SEC. 102. EXCLUSION OF CERTAIN DEATH BENEFITS.

(a) *IN GENERAL*.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

"(i) *CERTAIN EMPLOYEE DEATH BENEFITS PAYABLE BY REASON OF DEATH OF CERTAIN TERRORIST VICTIMS*.—

"(1) *IN GENERAL*.—Gross income does not include amounts (whether in a single sum or otherwise) paid by an employer by reason of the death of an employee who is a specified terrorist victim (as defined in section 692(d)(2)).

"(2) *LIMITATION*.—Subject to such rules as the Secretary may prescribe, paragraph (1) shall not apply to amounts which would have been payable if the individual had died other than as a specified terrorist victim (as so defined).

"(3) *TREATMENT OF SELF-EMPLOYED INDIVIDUALS*.—For purposes of paragraph (1), the term 'employee' includes a self-employed individual (as defined in section 401(c)(1))."

#### (b) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(1) *EFFECTIVE DATE*.—The amendment made by this section shall apply to taxable years ending before, on, or after September 11, 2001.

(2) *WAIVER OF LIMITATIONS*.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

##### SEC. 103. ESTATE TAX REDUCTION.

(a) *IN GENERAL*.—Section 2201 is amended to read as follows:

**"SEC. 2201. COMBAT ZONE-RELATED DEATHS OF MEMBERS OF THE ARMED FORCES AND DEATHS OF VICTIMS OF CERTAIN TERRORIST ATTACKS.**

"(a) *IN GENERAL*.—Unless the executor elects not to have this section apply, in applying sections 2001 and 2101 to the estate of a qualified decedent, the rate schedule set forth in subsection (c) shall be deemed to be the rate schedule set forth in section 2001(c).

"(b) *QUALIFIED DECEDENT*.—For purposes of this section, the term 'qualified decedent' means—

“(1) any citizen or resident of the United States dying while in active service of the Armed Forces of the United States, if such decedent—

“(A) was killed in action while serving in a combat zone, as determined under section 112(c), or

“(B) died as a result of wounds, disease, or injury suffered while serving in a combat zone (as determined under section 112(c)), and while in the line of duty, by reason of a hazard to which such decedent was subjected as an incident of such service, and

“(2) any specified terrorist victim (as defined in section 692(d)(2)).

“(c) RATE SCHEDULE.—

**“If the amount with respect to which the tentative tax to be computed is:**

|   |   |
|---|---|
| Not over \$150,000 .....                    | 1 percent of the amount by which such amount exceeds \$100,000. |
| Over \$150,000 but not over \$200,000.      | \$500 plus 2 percent of the excess over \$150,000.              |
| Over \$200,000 but not over \$300,000.      | \$1,500 plus 3 percent of the excess over \$200,000.            |
| Over \$300,000 but not over \$500,000.      | \$4,500 plus 4 percent of the excess over \$300,000.            |
| Over \$500,000 but not over \$700,000.      | \$12,500 plus 5 percent of the excess over \$500,000.           |
| Over \$700,000 but not over \$900,000.      | \$22,500 plus 6 percent of the excess over \$700,000.           |
| Over \$900,000 but not over \$1,100,000.    | \$34,500 plus 7 percent of the excess over \$900,000.           |
| Over \$1,100,000 but not over \$1,600,000.  | \$48,500 plus 8 percent of the excess over \$1,100,000.         |
| Over \$1,600,000 but not over \$2,100,000.  | \$88,500 plus 9 percent of the excess over \$1,600,000.         |
| Over \$2,100,000 but not over \$2,600,000.  | \$133,500 plus 10 percent of the excess over \$2,100,000.       |
| Over \$2,600,000 but not over \$3,100,000.  | \$183,500 plus 11 percent of the excess over \$2,600,000.       |
| Over \$3,100,000 but not over \$3,600,000.  | \$238,500 plus 12 percent of the excess over \$3,100,000.       |
| Over \$3,600,000 but not over \$4,100,000.  | \$298,500 plus 13 percent of the excess over \$3,600,000.       |
| Over \$4,100,000 but not over \$5,100,000.  | \$363,500 plus 14 percent of the excess over \$4,100,000.       |
| Over \$5,100,000 but not over \$6,100,000.  | \$503,500 plus 15 percent of the excess over \$5,100,000.       |
| Over \$6,100,000 but not over \$7,100,000.  | \$653,500 plus 16 percent of the excess over \$6,100,000.       |
| Over \$7,100,000 but not over \$8,100,000.  | \$813,500 plus 17 percent of the excess over \$7,100,000.       |
| Over \$8,100,000 but not over \$9,100,000.  | \$983,500 plus 18 percent of the excess over \$8,100,000.       |
| Over \$9,100,000 but not over \$10,100,000. | \$1,163,500 plus 19 percent of the excess over \$9,100,000.     |
| Over \$10,100,000 .....                     | \$1,353,500 plus 20 percent of the excess over \$10,100,000.    |

“(d) DETERMINATION OF UNIFIED CREDIT.—In the case of an estate to which this section applies, subsection (a) shall not apply in determining the credit under section 2010.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 2011 is amended by striking subsection (d) and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(2) Section 2053(d)(3)(B) is amended by striking “section 2011(e)” and inserting “section 2011(d)”.

(3) Paragraph (9) of section 532(c) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) CLERICAL AMENDMENT.—The item relating to section 2201 in the table of sections for subchapter C of chapter 11 is amended to read as follows:

“Sec. 2201. Combat zone-related deaths of members of the Armed Forces and deaths of victims of certain terrorist attacks.”.

(d) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents—

(A) dying on or after September 11, 2001, and (B) in the case of individuals dying as a result of the April 19, 1995, terrorist attack, dying on or after April 19, 1995.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

#### SEC. 104. PAYMENTS BY CHARITABLE ORGANIZATIONS TREATED AS EXEMPT PAYMENTS.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986—

(1) payments made by an organization described in section 501(c)(3) of such Code by reason of the death, injury, wounding, or illness of an individual incurred as the result of the terrorist attacks against the United States on September 11, 2001, or an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002, shall be treated as related to the purpose or function constituting the basis for such organization's exemption under section 501 of such Code if such payments are made—

(A) in good faith using a reasonable and objective formula which is consistently applied, and

(B) in furtherance of public rather than private purposes, and

(2) in the case of a private foundation (as defined in section 509 of such Code), any payment described in paragraph (1) shall not be treated as made to a disqualified person for purposes of section 4941 of such Code.

(b) EFFECTIVE DATE.—This section shall apply to payments made on or after September 11, 2001.

#### TITLE II—OTHER RELIEF PROVISIONS

#### SEC. 201. EXCLUSION FOR DISASTER RELIEF PAYMENTS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 139 as section 140 and inserting after section 138 the following new section:

##### “SEC. 139. DISASTER RELIEF PAYMENTS.

“(a) GENERAL RULE.—Gross income shall not include any amount received by an individual as a qualified disaster relief payment.

“(b) QUALIFIED DISASTER RELIEF PAYMENT DEFINED.—For purposes of this section, the term ‘qualified disaster relief payment’ means any amount paid to or for the benefit of an individual—

“(1) to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses incurred as a result of a qualified disaster,

“(2) to reimburse or pay reasonable and necessary expenses incurred for the repair or rehabilitation of a personal residence or repair or replacement of its contents to the extent that the need for such repair, rehabilitation, or replacement is attributable to a qualified disaster,

“(3) by a person engaged in the furnishing or sale of transportation as a common carrier by reason of the death or personal physical injuries incurred as a result of a qualified disaster, or

“(4) if such amount is paid by a Federal, State, or local government, or agency or instrumentality thereof, in connection with a qualified disaster in order to promote the general welfare,

but only to the extent any expense compensated by such payment is not otherwise compensated for by insurance or otherwise.

“(c) QUALIFIED DISASTER DEFINED.—For purposes of this section, the term ‘qualified disaster’ means—

“(1) a disaster which results from a terroristic or military action (as defined in section 692(c)(2)),

“(2) a Presidentially declared disaster (as defined in section 1033(h)(3)),

“(3) a disaster which results from an accident involving a common carrier, or from any other event, which is determined by the Secretary to be of a catastrophic nature, or

“(4) with respect to amounts described in subsection (b)(4), a disaster which is determined by an applicable Federal, State, or local authority (as determined by the Secretary) to warrant assistance from the Federal, State, or local government or agency or instrumentality thereof.

“(d) COORDINATION WITH EMPLOYMENT TAXES.—For purposes of chapter 2 and subtitle C, a qualified disaster relief payment shall not be treated as net earnings from self-employment, wages, or compensation subject to tax.

“(e) NO RELIEF FOR CERTAIN INDIVIDUALS.—Subsections (a) and (f) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in a terroristic action (as so defined), or a representative of such individual.

“(f) EXCLUSION OF CERTAIN ADDITIONAL PAYMENTS.—Gross income shall not include any amount received as payment under section 406 of the Air Transportation Safety and System Stabilization Act.”

(b) CONFORMING AMENDMENTS.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 139 and inserting the following new items:

“Sec. 139. Disaster relief payments.

“Sec. 140. Cross references to other Acts.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

#### SEC. 202. AUTHORITY TO POSTPONE CERTAIN DEADLINES AND REQUIRED ACTIONS.

(a) EXPANSION OF AUTHORITY RELATING TO DISASTERS AND TERRORISTIC OR MILITARY ACTIONS.—Section 7508A is amended to read as follows:

##### “SEC. 7508A. AUTHORITY TO POSTPONE CERTAIN DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTIONS.

“(a) IN GENERAL.—In the case of a taxpayer determined by the Secretary to be affected by a Presidentially declared disaster (as defined in section 1033(h)(3)) or a terroristic or military action (as defined in section 692(c)(2)), the Secretary may specify a period of up to one year that may be disregarded in determining, under the internal revenue laws, in respect of any tax liability of such taxpayer—

“(1) whether any of the acts described in paragraph (1) of section 7508(a) were performed within the time prescribed therefor (determined without regard to extension under any other provision of this subtitle for periods after the date (determined by the Secretary) of such disaster or action),

“(2) the amount of any interest, penalty, additional amount, or addition to the tax for periods after such date, and

“(3) the amount of any credit or refund.

“(b) SPECIAL RULES REGARDING PENSIONS, ETC.—In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a disaster or action described in subsection (a), the Secretary may specify a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this title. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of

disregarding any period by reason of the preceding sentence.

“(c) **SPECIAL RULES FOR OVERPAYMENTS.**—The rules of section 7508(b) shall apply for purposes of this section.”.

(b) **CLARIFICATION OF SCOPE OF ACTS SECRETARY MAY POSTPONE.**—Section 7508(a)(1)(K) (relating to time to be disregarded) is amended by striking “in regulations prescribed under this section”.

(c) **CONFORMING AMENDMENTS TO ERISA.**—(1) Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131 et seq.) is amended by adding at the end the following new section:

**“SEC. 518. AUTHORITY TO POSTPONE CERTAIN DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTIONS.**

“In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a Presidentially declared disaster (as defined in section 1033(h)(3) of the Internal Revenue Code of 1986) or a terroristic or military action (as defined in section 692(c)(2) of such Code), the Secretary may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this Act. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.”.

(2) Section 4002 of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302) is amended by adding at the end the following new subsection:

“(i) **SPECIAL RULES REGARDING DISASTERS, ETC.**—In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a Presidentially declared disaster (as defined in section 1033(h)(3) of the Internal Revenue Code of 1986) or a terroristic or military action (as defined in section 692(c)(2) of such Code), the corporation may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this Act. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.”.

(d) **ADDITIONAL CONFORMING AMENDMENTS.**—

(1) Section 6404 is amended—

(A) by striking subsection (h),

(B) by redesignating subsection (i) as subsection (h), and

(C) by adding at the end the following new subsection:

“(i) **CROSS REFERENCE.**—

“For authority to suspend running of interest, etc. by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.”.

(2) Section 6081(c) is amended to read as follows:

“(c) **CROSS REFERENCES.**—

“For time for performing certain acts postponed by reason of war, see section 7508, and by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.”.

(3) Section 6161(d) is amended by adding at the end the following new paragraph:

“(3) **POSTPONEMENT OF CERTAIN ACTS.**—

“For time for performing certain acts postponed by reason of war, see section 7508, and by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.”.

(d) **CLERICAL AMENDMENTS.**—

(1) The item relating to section 7508A in the table of sections for chapter 77 is amended to read as follows:

“Sec. 7508A. Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military actions.”.

(2) The table of contents for the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 517 the following new item:

“Sec. 518. Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military actions.”.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to disasters and terroristic or military actions occurring on or after September 11, 2001, with respect to any action of the Secretary of the Treasury, the Secretary of Labor, or the Pension Benefit Guaranty Corporation occurring on or after the date of the enactment of this Act.

#### **SEC. 203. APPLICATION OF CERTAIN PROVISIONS TO TERRORISTIC OR MILITARY ACTIONS.**

(a) **DISABILITY INCOME.**—Section 104(a)(5) (relating to compensation for injuries or sickness) is amended by striking “a violent attack” and all that follows through the period and inserting “a terroristic or military action (as defined in section 692(c)(2)).”.

(b) **EXEMPTION FROM INCOME TAX FOR CERTAIN MILITARY OR CIVILIAN EMPLOYEES.**—Section 692(c) is amended—

(1) by striking “outside the United States” in paragraph (1), and

(2) by striking “SUSTAINED OVERSEAS” in the heading.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

#### **SEC. 204. CLARIFICATION OF DUE DATE FOR AIRLINE EXCISE TAX DEPOSITS.**

(a) **IN GENERAL.**—Paragraph (3) of section 301(a) of the Air Transportation Safety and System Stabilization Act (Public Law 107-42) is amended to read as follows:

“(3) **AIRLINE-RELATED DEPOSIT.**—For purposes of this subsection, the term ‘airline-related deposit’ means any deposit of taxes imposed by subchapter C of chapter 33 of such Code (relating to transportation by air).”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect as if included in section 301 of the Air Transportation Safety and System Stabilization Act (Public Law 107-42).

#### **SEC. 205. TREATMENT OF CERTAIN STRUCTURED SETTLEMENT PAYMENTS.**

(a) **IN GENERAL.**—Subtitle E is amended by adding at the end the following new chapter:

#### **“CHAPTER 55—STRUCTURED SETTLEMENT FACTORING TRANSACTIONS**

“Sec. 5891. Structured settlement factoring transactions.

#### **“SEC. 5891. STRUCTURED SETTLEMENT FACTORING TRANSACTIONS.**

“(a) **IMPOSITION OF TAX.**—There is hereby imposed on any person who acquires directly or indirectly structured settlement payment rights in a structured settlement factoring transaction a tax equal to 40 percent of the factoring discount as determined under subsection (c)(4) with respect to such factoring transaction.

“(b) **EXCEPTION FOR CERTAIN APPROVED TRANSACTIONS.**—

“(1) **IN GENERAL.**—The tax under subsection (a) shall not apply in the case of a structured settlement factoring transaction in which the transfer of structured settlement payment rights is approved in advance in a qualified order.

“(2) **QUALIFIED ORDER.**—For purposes of this section, the term ‘qualified order’ means a final order, judgment, or decree which—

“(A) finds that the transfer described in paragraph (1)—

“(i) does not contravene any Federal or State statute or the order of any court or responsible administrative authority, and

“(ii) is in the best interest of the payee, taking into account the welfare and support of the payee’s dependents, and

“(B) is issued—

“(i) under the authority of an applicable State statute by an applicable State court, or

“(ii) by the responsible administrative authority (if any) which has exclusive jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

“(3) **APPLICABLE STATE STATUTE.**—For purposes of this section, the term ‘applicable State statute’ means a statute providing for the entry of an order, judgment, or decree described in paragraph (2)(A) which is enacted by—

“(A) the State in which the payee of the structured settlement is domiciled, or

“(B) if there is no statute described in subparagraph (A), the State in which either the party to the structured settlement (including an assignee under a qualified assignment under section 130) or the person issuing the funding asset for the structured settlement is domiciled or has its principal place of business.

“(4) **APPLICABLE STATE COURT.**—For purposes of this section—

“(A) **IN GENERAL.**—The term ‘applicable State court’ means, with respect to any applicable State statute, a court of the State which enacted such statute.

“(B) **SPECIAL RULE.**—In the case of an applicable State statute described in paragraph (3)(B), such term also includes a court of the State in which the payee of the structured settlement is domiciled.

“(5) **QUALIFIED ORDER DISPOSITIVE.**—A qualified order shall be treated as dispositive for purposes of the exception under this subsection.

“(c) **DEFINITIONS.**—For purposes of this section—

“(1) **STRUCTURED SETTLEMENT.**—The term ‘structured settlement’ means an arrangement—

“(A) which is established by—

“(i) suit or agreement for the periodic payment of damages excludable from the gross income of the recipient under section 104(a)(2), or

“(ii) agreement for the periodic payment of compensation under any workers’ compensation law excludable from the gross income of the recipient under section 104(a)(1), and

“(B) under which the periodic payments are—

“(i) of the character described in subparagraphs (A) and (B) of section 130(c)(2), and

“(ii) payable by a person who is a party to the suit or agreement or to the workers’ compensation claim or by a person who has assumed the liability for such periodic payments under a qualified assignment in accordance with section 130.

“(2) **STRUCTURED SETTLEMENT PAYMENT RIGHTS.**—The term ‘structured settlement payment rights’ means rights to receive payments under a structured settlement.

“(3) **STRUCTURED SETTLEMENT FACTORING TRANSACTION.**—

“(A) **IN GENERAL.**—The term ‘structured settlement factoring transaction’ means a transfer of structured settlement payment rights (including portions of structured settlement payments) made for consideration by means of sale, assignment, pledge, or other form of encumbrance or alienation for consideration.

“(B) **EXCEPTION.**—Such term shall not include—

“(i) the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution in the absence of any action to redirect the structured settlement payments to such institution (or agent or successor thereof) or otherwise to enforce such blanket security interest as against the structured settlement payment rights, or

“(ii) a subsequent transfer of structured settlement payment rights acquired in a structured settlement factoring transaction.

“(4) **FACTORING DISCOUNT.**—The term ‘factoring discount’ means an amount equal to the excess of—

“(A) the aggregate undiscounted amount of structured settlement payments being acquired in the structured settlement factoring transaction, over

“(B) the total amount actually paid by the acquirer to the person from whom such structured settlement payments are acquired.

“(5) **RESPONSIBLE ADMINISTRATIVE AUTHORITY.**—The term ‘responsible administrative authority’ means the administrative authority which had jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

“(6) **STATE.**—The term ‘State’ includes the Commonwealth of Puerto Rico and any possession of the United States.

“(d) **COORDINATION WITH OTHER PROVISIONS.**—

“(1) **IN GENERAL.**—If the applicable requirements of sections 72, 104(a)(1), 104(a)(2), 130, and 461(h) were satisfied at the time the structured settlement involving structured settlement payment rights was entered into, the subsequent occurrence of a structured settlement factoring transaction shall not affect the application of the provisions of such sections to the parties to the structured settlement (including an assignee under a qualified assignment under section 130) in any taxable year.

“(2) **NO WITHHOLDING OF TAX.**—The provisions of section 3405 regarding withholding of tax shall not apply to the person making the payments in the event of a structured settlement factoring transaction.”

(b) **CLERICAL AMENDMENT.**—The table of chapters for subtitle E is amended by adding at the end the following new item:

“Chapter 55. Structured settlement factoring transactions.”

(c) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—The amendments made by this section (other than the provisions of section 5891(d) of the Internal Revenue Code of 1986, as added by this section) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code (as so added)) entered into on or after the 30th day following the date of the enactment of this Act.

(2) **CLARIFICATION OF EXISTING LAW.**—Section 5891(d) of such Code (as so added) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code (as so added)) entered into on or after such 30th day.

(3) **TRANSITION RULE.**—In the case of a structured settlement factoring transaction entered into during the period beginning on the 30th day following the date of the enactment of this Act and ending on July 1, 2002, no tax shall be imposed under section 5891(a) of such Code if—

(A) the structured settlement payee is domiciled in a State (or possession of the United States) which has not enacted a statute providing that the structured settlement factoring transaction is ineffective unless the transaction has been approved by an order, judgment, or decree of a court (or where applicable, a responsible administrative authority) which finds that such transaction—

(i) does not contravene any Federal or State statute or the order of any court (or responsible administrative authority), and

(ii) is in the best interest of the structured settlement payee or is appropriate in light of a hardship faced by the payee, and

(B) the person acquiring the structured settlement payment rights discloses to the structured settlement payee in advance of the structured settlement factoring transaction the amounts and due dates of the payments to be transferred, the aggregate amount to be transferred, the consideration to be received by the structured settle-

ment payee for the transferred payments, the discounted present value of the transferred payments (including the present value as determined in the manner described in section 7520 of such Code), and the expenses required under the terms of the structured settlement factoring transaction to be paid by the structured settlement payee or deducted from the proceeds of such transaction.

#### **SEC. 206. PERSONAL EXEMPTION DEDUCTION FOR CERTAIN DISABILITY TRUSTS.**

(a) **IN GENERAL.**—Subsection (b) of section 642 (relating to deduction for personal exemption) is amended to read as follows:

“(b) **DEDUCTION FOR PERSONAL EXEMPTION.**—

“(1) **ESTATES.**—An estate shall be allowed a deduction of \$600.

“(2) **TRUSTS.**—

“(A) **IN GENERAL.**—Except as otherwise provided in this paragraph, a trust shall be allowed a deduction of \$100.

“(B) **TRUSTS DISTRIBUTING INCOME CURRENTLY.**—A trust which, under its governing instrument, is required to distribute all of its income currently shall be allowed a deduction of \$300.

“(C) **DISABILITY TRUSTS.**—

“(i) **IN GENERAL.**—A qualified disability trust shall be allowed a deduction equal to the exemption amount under section 151(d), determined—

“(I) by treating such trust as an individual described in section 151(d)(3)(C)(iii), and

“(II) by applying section 67(e) (without the reference to section 642(b)) for purposes of determining the adjusted gross income of the trust.

“(ii) **QUALIFIED DISABILITY TRUST.**—For purposes of clause (i), the term ‘qualified disability trust’ means any trust if—

“(I) such trust is a disability trust described in subsection (c)(2)(B)(iv), (d)(4)(A), or (d)(4)(C) of section 1917 of the Social Security Act (42 U.S.C. 1396p), and

“(II) all of the beneficiaries of the trust as of the close of the taxable year are determined to have been disabled (within the meaning of section 1614(a)(3) of the Social Security Act, 42 U.S.C. 1382c(a)(3)) for some portion of such year.

A trust shall not fail to meet the requirements of subclause (II) merely because the corpus of the trust may revert to a person who is not so disabled after the trust ceases to have any beneficiary who is so disabled.”

“(3) **DEDUCTIONS IN LIEU OF PERSONAL EXEMPTION.**—The deductions allowed by this subsection shall be in lieu of the deductions allowed under section 151 (relating to deduction for personal exemption).”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years ending on or after September 11, 2001.

#### **TITLE III—TAX BENEFITS FOR AREA OF NEW YORK CITY DAMAGED IN TERRORIST ATTACKS ON SEPTEMBER 11, 2001**

##### **SEC. 301. TAX BENEFITS FOR AREA OF NEW YORK CITY DAMAGED IN TERRORIST ATTACKS ON SEPTEMBER 11, 2001.**

(a) **IN GENERAL.**—Chapter 1 is amended by adding at the end the following new subchapter:

##### **“Subchapter Y—New York Liberty Zone Benefits**

“Sec. 1400L. Tax benefits for New York Liberty Zone.

##### **“SEC. 1400L. TAX BENEFITS FOR NEW YORK LIBERTY ZONE.**

“(a) **SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001.**—

“(1) **ADDITIONAL ALLOWANCE.**—In the case of any qualified New York Liberty Zone property—

“(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 30 percent of the adjusted basis of such property, and

“(B) the adjusted basis of the qualified New York Liberty Zone property shall be reduced by

the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

“(2) **QUALIFIED NEW YORK LIBERTY ZONE PROPERTY.**—For purposes of this subsection—

“(A) **IN GENERAL.**—The term ‘qualified New York Liberty Zone property’ means property—

“(i)(I) to which section 168 applies (other than railroad grading and tunnel bores), or

“(II) which is computer software (as defined in section 167(f)(1)(B)) for which a deduction is allowable under section 167(a) without regard to this subsection,

“(ii) substantially all of the use of which is in the New York Liberty Zone and is in the active conduct of a trade or business by the taxpayer in such Zone,

“(iii) the original use of which in the New York Liberty Zone commences with the taxpayer after September 10, 2001, and

“(iv) which is acquired by the taxpayer by purchase (as defined in section 179(d)) after September 10, 2001, and placed in service by the taxpayer on or before the termination date, but only if no written binding contract for the acquisition was in effect before September 11, 2001.

The term ‘termination date’ means December 31, 2006 (December 31, 2009, in the case of nonresidential real property and residential rental property).

“(B) **EXCEPTIONS.**—

“(i) **ALTERNATIVE DEPRECIATION PROPERTY.**—The term ‘qualified New York Liberty Zone property’ shall not include any property to which the alternative depreciation system under section 168(g) applies, determined—

“(I) without regard to paragraph (7) of section 168(g) (relating to election to have system apply), and

“(II) after application of section 280F(b) (relating to listed property with limited business use).

“(ii) **QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.**—Such term shall not include qualified leasehold improvement property.

“(iii) **ELECTION OUT.**—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

“(C) **SPECIAL RULES RELATING TO ORIGINAL USE.**—

“(i) **SELF-CONSTRUCTED PROPERTY.**—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer’s own use, the requirements of clause (iv) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after September 10, 2001, and before the termination date.

“(ii) **SALE-LEASEBACKS.**—For purposes of subparagraph (A)(iii), if property—

“(I) is originally placed in service after September 10, 2001, by a person, and

“(II) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

“(D) **ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.**—The deduction allowed by this subsection shall be allowed in determining alternative minimum taxable income under section 55.

“(b) **5-YEAR RECOVERY PERIOD FOR DEPRECIATION OF CERTAIN LEASEHOLD IMPROVEMENTS.**—

“(1) **IN GENERAL.**—For purposes of section 168, the term ‘5-year property’ includes any qualified leasehold improvement property.

“(2) **QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.**—For purposes of this section—

“(A) **IN GENERAL.**—The term ‘qualified leasehold improvement property’ means any improvement to an interior portion of a building which is nonresidential real property if—



“(i) such building is located in the New York Liberty Zone,

“(ii) such improvement is made under or pursuant to a lease (as defined in section 168(h)(7))—

“(I) by the lessee (or any sublessee) of such portion, or

“(II) by the lessor of such portion,

“(iii) such portion is to be occupied exclusively by the lessee (or any sublessee) of such portion,

“(iv) such improvement is placed in service—

“(I) after September 10, 2001, and more than 3 years after the date the building was first placed in service, and

“(II) before January 1, 2007, and

“(v) no written binding contract for such improvement was in effect before September 11, 2001.

“(B) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

“(i) the enlargement of the building,

“(ii) any elevator or escalator,

“(iii) any structural component benefiting a common area, and

“(iv) the internal structural framework of the building.

“(C) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

“(i) COMMITMENT TO LEASE TREATED AS LEASE.—A commitment to enter into a lease shall be treated as a lease, and the parties to such commitment shall be treated as lessor and lessee, respectively.

“(ii) RELATED PERSONS.—A lease between related persons shall not be considered a lease. For purposes of the preceding sentence, the term ‘related persons’ means—

“(I) members of an affiliated group (as defined in section 1504), and

“(II) persons having a relationship described in subsection (b) of section 267; except that, for purposes of this clause, the phrase ‘80 percent or more’ shall be substituted for the phrase ‘more than 50 percent’ each place it appears in such subsection.

“(D) IMPROVEMENTS MADE BY LESSOR.—

“(i) IN GENERAL.—In the case of an improvement made by the person who was the lessor of such improvement when such improvement was placed in service, such improvement shall be qualified leasehold improvement property (if at all) only so long as such improvement is held by such person.

“(ii) EXCEPTION FOR CHANGES IN FORM OF BUSINESS.—Property shall not cease to be qualified leasehold improvement property under clause (i) by reason of—

“(I) death,

“(II) a transaction to which section 381(a) applies, or

“(III) a mere change in the form of conducting the trade or business so long as the property is retained in such trade or business as qualified leasehold improvement property and the taxpayer retains a substantial interest in such trade or business.

“(3) REQUIREMENT TO USE STRAIGHT LINE METHOD.—The applicable depreciation method under section 168 shall be the straight line method in the case of qualified leasehold improvement property.

“(4) 9-YEAR RECOVERY PERIOD UNDER ALTERNATIVE SYSTEM.—For purposes of section 168(g), the class life of qualified leasehold improvement property shall be 9 years.

“(C) INCREASE IN EXPENSING UNDER SECTION 179.—

“(1) IN GENERAL.—For purposes of section 179—

“(A) the limitation under section 179(b)(1) shall be increased by the lesser of—

“(i) \$35,000, or

“(ii) the cost of section 179 property which is qualified New York Liberty Zone property placed in service during the taxable year, and

“(B) the amount taken into account under section 179(b)(2) with respect to any section 179

property which is qualified New York Liberty Zone property shall be 50 percent of the cost thereof.

“(2) RECAPTURE.—Rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified New York Liberty Zone property which ceases to be used in the New York Liberty Zone.

“(d) TAX-EXEMPT BOND FINANCING.—

“(1) IN GENERAL.—For purposes of this title, any qualified New York Liberty Bond shall be treated as an exempt facility bond.

“(2) QUALIFIED NEW YORK LIBERTY BOND.—For purposes of this subsection, the term ‘qualified New York Liberty Bond’ means any bond issued as part of an issue if—

“(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of such issue are to be used for qualified project costs,

“(B) such bond is issued by the State of New York or any political subdivision thereof,

“(C) the Governor of New York designates such bond for purposes of this section, and

“(D) such bond is issued during calendar year 2002, 2003, or 2004.

“(3) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under this subsection shall not exceed \$15,000,000,000.

“(4) QUALIFIED PROJECT COSTS.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified project costs’ means the cost of acquisition, construction, reconstruction, and renovation of—

“(i) nonresidential real property and residential rental property (including fixed tenant improvements associated with such property) located in the New York Liberty Zone, and

“(ii) public utility property located in the New York Liberty Zone.

“(B) COSTS FOR CERTAIN PROPERTY OUTSIDE ZONE INCLUDED.—Such term includes the cost of acquisition, construction, reconstruction, and renovation of nonresidential real property (including fixed tenant improvements associated with such property) located outside the New York Liberty Zone but within the City of New York, New York, if such property is part of a project which consists of at least 100,000 square feet of usable office or other commercial space located in a single building or multiple adjacent buildings.

“(C) LIMITATIONS.—Such term shall not include—

“(i) costs for property located outside the New York Liberty Zone to the extent such costs exceed \$7,000,000,000,

“(ii) costs with respect to residential rental property to the extent such costs exceed \$3,000,000,000, and

“(iii) costs with respect to property used for retail sales of tangible property to the extent such costs exceed \$1,500,000,000.

“(D) MOVABLE FIXTURES AND EQUIPMENT.—Such term shall not include costs with respect to movable fixtures and equipment.

“(5) SPECIAL RULES.—In applying this title to any qualified New York Liberty Bond, the following modifications shall apply:

“(A) Section 146 (relating to volume cap) shall not apply.

“(B) Section 147(c) (relating to limitation on use for land acquisition) shall be determined by reference to the aggregate authorized face amount of all qualified New York Liberty Bonds rather than the net proceeds of each issue.

“(C) Section 147(d) (relating to acquisition of existing property not permitted) shall be applied by substituting ‘50 percent’ for ‘15 percent’ each place it appears.

“(D) Section 148(f)(4)(C) (relating to exception from rebate for certain proceeds to be used to finance construction expenditures) shall apply to construction proceeds of bonds issued under this section.

“(E) Financing provided by such a bond shall not be taken into account under section 168(g)(5)(A) with respect to property substan-

tially all of the use of which is in the New York Liberty Zone and is in the active conduct of a trade or business by the taxpayer in such Zone.

“(F) Repayments of principal on financing provided by the issue—

“(i) may not be used to provide financing, and

“(ii) are used not later than the close of the 1st semiannual period beginning after the date of the repayment to redeem bonds which are part of such issue.

The requirement of clause (ii) shall be treated as met with respect to amounts received within 10 years after the date of issuance of the issue (or, in the case of refunding bond, the date of issuance of the original bond) if such amounts are used by the close of such 10 years to redeem bonds which are part of such issue.

“(G) Section 57(a)(5) shall not apply.

“(6) SEPARATE ISSUE TREATMENT OF PORTIONS OF AN ISSUE.—This subsection shall not apply to the portion of the proceeds of an issue which (if issued as a separate issue) would be treated as a qualified bond or as a bond that is not a private activity bond (determined without regard to subsection (a)), if the issuer elects to so treat such portion.

“(e) EXTENSION OF REPLACEMENT PERIOD FOR NONRECOGNITION OF GAIN.—Notwithstanding subsections (g) and (h) of section 1033, clause (i) of section 1033(a)(2)(B) shall be applied by substituting ‘5 years’ for ‘2 years’ with respect to property which is compulsorily or involuntarily converted as a result of the terrorist attacks on September 11, 2001, in the New York Liberty Zone but only if substantially all of the use of the replacement property is in the City of New York, New York.

“(f) NEW YORK LIBERTY ZONE.—For purposes of this section, the term ‘New York Liberty Zone’ means the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan in the City of New York, New York.”

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by adding at the end the following new item:

“Subchapter Y. New York Liberty Zone Benefits.”

#### **TITLE IV—DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS**

##### **SEC. 401. DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS.**

(a) DISCLOSURE WITHOUT A REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—Paragraph (3) of section 6103(i) (relating to disclosure of return information to apprise appropriate officials of criminal activities or emergency circumstances) is amended by adding at the end the following new subparagraph:

“(C) TERRORIST ACTIVITIES, ETC.—

“(i) IN GENERAL.—Except as provided in paragraph (6), the Secretary may disclose in writing return information (other than taxpayer return information) that may be related to a terrorist incident, threat, or activity to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to such terrorist incident, threat, or activity. The head of the agency may disclose such return information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

“(ii) DISCLOSURE TO THE DEPARTMENT OF JUSTICE.—Returns and taxpayer return information may also be disclosed to the Attorney General under clause (i) to the extent necessary for, and solely for use in preparing, an application under paragraph (7)(D).

“(iii) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer’s identity shall not be treated as taxpayer return information.

“(iv) **TERMINATION.**—No disclosure may be made under this subparagraph after December 31, 2003.”.

(b) **DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.**—Subsection (i) of section 6103 (relating to disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

“(7) **DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.**—

“(A) **DISCLOSURE TO LAW ENFORCEMENT AGENCIES.**—

“(i) **IN GENERAL.**—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (iii), the Secretary may disclose return information (other than taxpayer return information) to officers and employees of any Federal law enforcement agency who are personally and directly engaged in the response to or investigation of any terrorist incident, threat, or activity.

“(ii) **DISCLOSURE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.**—The head of any Federal law enforcement agency may disclose return information obtained under clause (i) to officers and employees of any State or local law enforcement agency but only if such agency is part of a team with the Federal law enforcement agency in such response or investigation and such information is disclosed only to officers and employees who are personally and directly engaged in such response or investigation.

“(iii) **REQUIREMENTS.**—A request meets the requirements of this clause if—

“(I) the request is made by the head of any Federal law enforcement agency (or his delegate) involved in the response to or investigation of any terrorist incident, threat, or activity, and

“(II) the request sets forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity.

“(iv) **LIMITATION ON USE OF INFORMATION.**—Information disclosed under this subparagraph shall be solely for the use of the officers and employees to whom such information is disclosed in such response or investigation.

“(B) **DISCLOSURE TO INTELLIGENCE AGENCIES.**—

“(i) **IN GENERAL.**—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (ii), the Secretary may disclose return information (other than taxpayer return information) to those officers and employees of the Department of Justice, the Department of the Treasury, and other Federal intelligence agencies who are personally and directly engaged in the collection or analysis of intelligence and counterintelligence information or investigation concerning any terrorist incident, threat, or activity. For purposes of the preceding sentence, the information disclosed under the preceding sentence shall be solely for the use of such officers and employees in such investigation, collection, or analysis.

“(ii) **REQUIREMENTS.**—A request meets the requirements of this subparagraph if the request—

“(I) is made by an individual described in clause (iii), and

“(II) sets forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity.

“(iii) **REQUESTING INDIVIDUALS.**—An individual described in this subparagraph is an individual—

“(I) who is an officer or employee of the Department of Justice or the Department of the Treasury who is appointed by the President with the advice and consent of the Senate or who is the Director of the United States Secret Service, and

“(II) who is responsible for the collection and analysis of intelligence and counterintelligence

information concerning any terrorist incident, threat, or activity.

“(iv) **TAXPAYER IDENTITY.**—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

“(C) **DISCLOSURE UNDER EX PARTE ORDERS.**—

“(i) **IN GENERAL.**—Except as provided in paragraph (6), any return or return information with respect to any specified taxable period or periods shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under clause (ii), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal law enforcement agency or Federal intelligence agency who are personally and directly engaged in any investigation, response to, or analysis of intelligence and counterintelligence information concerning any terrorist incident, threat, or activity. Return or return information opened to inspection or disclosure pursuant to the preceding sentence shall be solely for the use of such officers and employees in the investigation, response, or analysis, and in any judicial, administrative, or grand jury proceedings, pertaining to such terrorist incident, threat, or activity.

“(ii) **APPLICATION FOR ORDER.**—The Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, or any United States attorney may authorize an application to a Federal district court judge or magistrate for the order referred to in clause (i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

“(I) there is reasonable cause to believe, based upon information believed to be reliable, that the return or return information may be relevant to a matter relating to such terrorist incident, threat, or activity, and

“(II) the return or return information is sought exclusively for use in a Federal investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.

“(D) **SPECIAL RULE FOR EX PARTE DISCLOSURE BY THE IRS.**—

“(i) **IN GENERAL.**—Except as provided in paragraph (6), the Secretary may authorize an application to a Federal district court judge or magistrate for the order referred to in subparagraph (C)(i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that the requirements of subparagraph (C)(ii)(I) are met.

“(ii) **LIMITATION ON USE OF INFORMATION.**—Information disclosed under clause (i)—

“(I) may be disclosed only to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to a terrorist incident, threat, or activity, and

“(II) shall be solely for use in a Federal investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.

The head of such Federal agency may disclose such information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

“(E) **TERMINATION.**—No disclosure may be made under this paragraph after December 31, 2003.”.

(c) **CONFORMING AMENDMENTS.**—

(1) Section 6103(a)(2) is amended by inserting “any local law enforcement agency receiving information under subsection (i)(7)(A),” after “State.”.

(2) Section 6103(b) is amended by adding at the end the following new paragraph:

“(11) **TERRORIST INCIDENT, THREAT, OR ACTIVITY.**—The term ‘terrorist incident, threat, or activity’ means an incident, threat, or activity involving an act of domestic terrorism (as defined in section 2331(5) of title 18, United States Code)

or international terrorism (as defined in section 2331(1) of such title).”.

(3) The heading of section 6103(i)(3) is amended by inserting “OR TERRORIST” after “CRIMINAL”.

(4) Paragraph (4) of section 6103(i) is amended—

(A) in subparagraph (A) by inserting “or (7)(C)” after “paragraph (1)”, and

(B) in subparagraph (B) by striking “or (3)(A)” and inserting “(3)(A) or (C), or (7)”.

(5) Paragraph (6) of section 6103(i) is amended—

(A) by striking “(3)(A)” and inserting “(3)(A) or (C)”, and

(B) by striking “or (7)” and inserting “(7), or (8)”.

(6) Section 6103(p)(3) is amended—

(A) in subparagraph (A) by striking “(7)(A)(ii)” and inserting “(8)(A)(ii)”, and

(B) in subparagraph (C) by striking “(i)(3)(B)(i)” and inserting “(i)(3)(B)(i) or (7)(A)(ii)”.

(7) Section 6103(p)(4) is amended—

(A) in the matter preceding subparagraph (A)—

(i) by striking “or (5),” the first place it appears and inserting “(5), or (7),”, and

(ii) by striking “(i)(3)(B)(i),” and inserting “(i)(3)(B)(i) or (7)(A)(ii),” and

(B) in subparagraph (F)(ii) by striking “or (5),” the first place it appears and inserting “(5) or (7),”.

(8) Section 6103(p)(6)(B)(i) is amended by striking “(i)(7)(A)(ii)” and inserting “(i)(8)(A)(ii)”.

(9) Section 6105(b) is amended—

(A) by striking “or” at the end of paragraph (2),

(B) by striking “paragraphs (1) or (2)” in paragraph (3) and inserting “paragraph (1), (2), or (3)”,

(C) by redesignating paragraph (3) as paragraph (4), and

(D) by inserting after paragraph (2) the following new paragraph:

“(3) to the disclosure of tax convention information on the same terms as return information may be disclosed under paragraph (3)(C) or (7) of section 6103(i), except that in the case of tax convention information provided by a foreign government, no disclosure may be made under this paragraph without the written consent of the foreign government, or”.

(10) Section 7213(a)(2) is amended by striking “(i)(3)(B)(i),” and inserting “(i)(3)(B)(i) or (7)(A)(ii),”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to disclosures made on or after the date of the enactment of this Act.

## TITLE V—NO IMPACT ON SOCIAL SECURITY TRUST FUNDS

### SEC. 501. NO IMPACT ON SOCIAL SECURITY TRUST FUNDS.

(a) **IN GENERAL.**—Nothing in this Act (or an amendment made by this Act) shall be construed to alter or amend title II of the Social Security Act (or any regulation promulgated under that Act).

(b) **TRANSFERS.**—

(1) **ESTIMATE OF SECRETARY.**—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) **TRANSFER OF FUNDS.**—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of this Act.



The amendment (No. 2689) was agreed to.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted and Proposed.")

Mr. TORRICELLI. I express my thanks to Senator DASCHLE, Senator LOTT, Senator BAUCUS, Senator GRASSLEY, Senator NICKLES, and so many Members of the Senate who made this possible. I know during this Christmas season that the plight and distress of the families of those who lost their lives in Virginia, New York, New Jersey, and Pennsylvania will be in all of our thoughts. That really is not enough.

Charities have raised an enormous amount of money, but it has not gotten to the victims' families. There is a victims' fund this Government has raised, but it has not yet gotten to these victims' families. This tax relief offers real and immediate benefits. It has the promise that as American citizens give funds to charities, the funds from those charities will not in turn be taxed as they get to the widows, the parents, or other relatives. It holds the promise that there will be a refund given to many of these families.

Offering financial relief is little solace given such enormous pain, but it is of some help. Families who have buried their loved ones are also paying mortgages, tuition, and buying groceries. This is real help.

I am grateful to the Members of the Senate who have helped pass this legislation. I am grateful to Chairman THOMAS of the House Ways and Means Committee who has been with us as an architect in its passage.

I express on behalf of all the families for whom this means so much in this holiday season their gratitude to all of you who have made this possible. I yield the floor.

The PRESIDING OFFICER (Ms. CANTWELL). The majority leader.

Mr. DASCHLE. Madam President, I thank both Senators from New Jersey for their extraordinary work in getting us to this point. This was not easy, and I am grateful to them for their persistence, their leadership, and their efforts. This would not have happened were it not for their direct involvement to this moment. I say the same to the Senators from New York for the tremendous work they have done assisting us in getting to this point as well.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Madam President, I will be brief because I know we want to finish up the debate on the Defense appropriations conference report and get a recorded vote. There are Senators who would like that to occur sooner rather than later, so I will not belabor the point.

I am glad we worked out the agreement on the victims' disaster of September 11. I appreciate the cooperation all the way around. One can tell by the discussion that one of the reasons some of these other meritorious items were

not added is that once we had one, there would be two, three, four, and we could not get all those worked out in the short time we had, and we stood the chance of losing the victims' tax provisions. I am glad we did that.

Also, I understand many of these provisions, including the New York provision, are in the stimulus package that has been voted on by the House. We are going to eventually get a stimulus package, and I hope and expect that provision will be in the bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. I thank the Chair.

Madam President, I, too, thank the Senate and the leadership of Senator DASCHLE, Senator LOTT, the chairman of the House Ways and Means Committee, Senator BAUCUS, and others who have worked with us to allow this victims' relief effort to come to pass.

Nothing can be more sincere and heartfelt during this holiday season than to respond with this legislation for families who have lost so much.

I thank the Senate for its efforts.

#### DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002—CONFERENCE REPORT—Continued

Mr. DASCHLE. Madam President, it is my understanding we now have agreement to go directly to the vote on the conference report to H.R. 3338. I appreciate everyone's cooperation in that regard and I ask that the Senate proceed. For the interest of all Senators, this will be the last vote of the day.

The PRESIDING OFFICER. Is there further debate?

The Senator from West Virginia.

Mr. BYRD. I will take 30 seconds. I had agreed, in the interest of letting Senators catch their planes, to having the vote and then have my statement concerning the homeland defense part appear in the RECORD as though spoken before the vote. That unanimous consent was not agreed to and others spoke. The Senator from Arizona spoke. It was my understanding we would all give up that privilege and we would vote without speaking. Others have spoken. I am not going to stand in the way of Senators going home on this occasion, so I want to make it clear I did not object in the beginning so everybody who had speeches could make them.

I am willing to give up my speech right now. It is a great speech, but I will make it after the vote. I wanted to call it to the attention of the Senate that I kind of begrudgingly agreed to that request.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. DASCHLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the concurrent resolution.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA) is necessarily absent.

Mr. NICKLES. I announce that the Senator from Missouri (Mr. BOND), the Senator from Nevada (Mr. ENSIGN), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 2, as follows:

[Rollcall Vote No. 380 Leg.]

#### YEAS—94

|           |            |             |
|-----------|------------|-------------|
| Allard    | Durbin     | Mikulski    |
| Allen     | Edwards    | Miller      |
| Baucus    | Enzi       | Murkowski   |
| Bayh      | Feingold   | Murray      |
| Bennett   | Feinstein  | Nelson (FL) |
| Biden     | Fitzgerald | Nelson (NE) |
| Bingaman  | Frist      | Nickles     |
| Boxer     | Graham     | Reed        |
| Breaux    | Grassley   | Reid        |
| Brownback | Gregg      | Roberts     |
| Bunning   | Hagel      | Rockefeller |
| Burns     | Harkin     | Santorum    |
| Byrd      | Hatch      | Sarbanes    |
| Campbell  | Hollings   | Schumer     |
| Cantwell  | Hutchinson | Sessions    |
| Carnahan  | Hutchison  | Shelby      |
| Carper    | Inhofe     | Smith (NH)  |
| Chafee    | Inouye     | Smith (OR)  |
| Cleland   | Jeffords   | Snowe       |
| Clinton   | Johnson    | Specter     |
| Cochran   | Kennedy    | Stabenow    |
| Collins   | Kerry      | Stevens     |
| Conrad    | Kohl       | Thomas      |
| Corzine   | Kyl        | Thompson    |
| Craig     | Landrieu   | Thurmond    |
| Crapo     | Leahy      | Torricelli  |
| Daschle   | Levin      | Voinovich   |
| Dayton    | Lieberman  | Warner      |
| DeWine    | Lincoln    | Wellstone   |
| Dodd      | Lott       | Wyden       |
| Domenici  | Lugar      |             |
| Dorgan    | McConnell  |             |

#### NAYS—2

Gramm  
McCain

#### NOT VOTING—4

Akaka  
Bond  
Ensign  
Helms

The conference report (H.R. 3338) was agreed to.

Mr. REID. Madam President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Madam President, if I may take just one moment. I see Senator DASCHLE is getting ready to propound some unanimous consent requests.

Let me take a moment to say to the managers of the legislation and the chairman and ranking member of the committee, I know this has not been easy. There have been a lot of great ideas on both sides of the aisle as to how we could improve it or change it. You have been tenacious, you stuck with it, and you produced a good piece of legislation that is important for our country, important for our men and women in uniform.

This very morning the President called and said he was pleased with the result and he appreciates the leadership the Senate gave in this area.